

Kenneth E. Nero, Chief Librarian - National Labor Relations Board
1099 14th Street NW - Suite 8000
Washington, DC 20570

Summary Statement

Mr. Chairman and Members of the Commercial Activities Panel, my name is Kenneth E. Nero and I am here today as an interested party to speak about the policies, procedures, and contexts that affect the process for determining whether librarian functions should continue to be performed by government personnel. I am the Chief Librarian at the National Labor Relations Board (NLRB). I am also an elected member of the FLICC Executive Board (FEB). FLICC stands for Federal Library and Information Center Committee and is part of the Library of Congress. I am not here on behalf of the NLRB, FEB, or any professional organization where I hold membership.

The ongoing implementation of the FAIR Act and related outsourcing policy instruments raises questions and concerns about its effects on the provision of library and information services in the federal context. The concept of an inherently governmental function must be understood as a core competency and something integral to the way an Agency conducts its business. The definition of an inherently governmental function, however, can depend on who is conducting the FAIR Act inventory. Between Constitutionally-mandated functions such as

Kenneth E. Nero, Chief Librarian - National Labor Relations Board
1099 14th Street NW - Suite 8000
Washington, DC 20570

legislative authority for Congress, executive powers for the President, judicial powers for the courts and menial/clerical occupations¹, many of the administrative and professional government functions defy easy categorical assignment as either a commercial or governmental activity. They could contain characteristics of each category.

Several FAIR Act inventories submitted to OMB in 1999 and 2000 listed federal libraries as commercial activities. Given the continuing evolution in content acquisition and increasing responsibilities for enterprise-wide deployment of information resources, certain functions of the federal librarian position require governmental authority. But when an Agency deems its entire federal library as a commercial activity without regard to analyzing whether the librarian performs inherently governmental functions, the FAIR Act inventory is less than accurate and is tantamount to throwing the baby out with the bath water.

The work performed by federal librarians cannot be understood under the rubric of the FAIR Act unless the framework

¹These occupations were excluded from the definition of 'inherently governmental function' by section 5(C)(ii) of the FAIR Act, Pub.L. 105-270, 112 Stat. 2382.

Kenneth E. Nero, Chief Librarian - National Labor Relations Board
1099 14th Street NW - Suite 8000
Washington, DC 20570

for determining inherently governmental functions recognizes the realities and nuances of the work performed by federal librarians. I believe two of the cornerstones for successful FAIR Act implementations hinge on the accuracy of the inventories and a framework that insists on consistent interpretation of the terms 'commercial activity' and 'inherently governmental.' Without a procedural framework that accurately addresses the core governmental competencies required by Agencies to perform their respective missions, the FAIR Act process could be fraught with unnecessary ambiguity. Considering the goal to make the government more citizen-centric and the current initiative to restructure and streamline the federal workforce, accurate FAIR Act inventories will provide a blueprint for improved service to the American citizen and responsible use of government funds.